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IN THE HOUSE OF REPRESENTATIVES.

JANUARY 14, 1863.

Read twice, and referred to the select committee on a military railroad between Washington city and New York.

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Mr. FENTON, on leave, introduced the following bill:

**A BILL**

To provide for the construction of a military and postal railway from the city of Washington to the city of New York.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That

12       together with such other persons as may become associated  
13       with them for that purpose, together with their successors,

14 are hereby created and erected into a body corporate and  
15 politic, in deed and in law, by the name, style, and title of  
16 "The Washington and New York Air-Line Railway Com-  
17 pany," and by that name shall have perpetual succession, and  
18 shall be able to sue and to be sued, plead and be impleaded,  
19 defend and be defended, in all courts of law and equity  
20 within the United States, and may make and use a common  
21 seal, and may adopt by-laws for its regulation and govern-  
22 ment.

1       SEC. 2. *And be it further enacted,* That the said cor-  
2 poration is hereby authorized and empowered to locate, lay  
3 out, construct, equip, maintain, use, and enjoy a continuous  
4 line of railroad, with all the appurtenances necessary and  
5 convenient to the same, commencing at a point in the city of  
6 Washington, District of Columbia, and running thence upon  
7 the most practicable and direct route, approximating as  
8 nearly as may be to an air-line through the States of Mary-  
9 land, Delaware, Pennsylvania, and New Jersey, to a point  
10 upon the west shore of the Hudson river, opposite the city  
11 of New York. Said location to be subject to the approval  
12 of the President of the United States.

1       SEC. 3. *And be it further enacted,* That the capital stock  
2 of said company shall be ten million dollars, and shall con-  
3 sist of ten thousand shares of one thousand dollars each,  
4 which shall be subscribed for upon the books of said com-

pany, and shall be transferable in such manner as the by-laws of said company shall prescribe. The persons hereinbefore named, or a majority of them, may, in case the capital stock shall not have been subscribed within thirty days after the passage of this act, open, or cause to be opened, books of subscription to said stock at some convenient place in the cities of Washington, Baltimore, Wilmington, Philadelphia, Trenton, and New York, at such time as they may designate, by public notice of at least ten days in one daily paper in each of said cities. A cash payment of ten per centum on all subscriptions shall be paid at the time of subscribing to the person or persons properly authorized by the above-named corporators to receive the same. And whenever an amount not less than one million dollars shall have been in good faith subscribed to said stock, and ten per centum of the same paid as above prescribed, it shall be the duty of the above-named corporators to call a meeting of the stockholders, in either the cities of Washington, Baltimore, Philadelphia, or New York, for the purpose of electing thirteen directors for said corporation, each of whom shall be a stockholder in said corporation; and at least one of whom shall be a resident, and have an office or place of business in the District of Columbia; and also one in the States of Maryland, Delaware, Pennsylvania, New Jersey, and New York respectively; and in such election each share of said capital stock shall entitle the owner

30 thereof to one vote. The corporators hereinbefore named  
31 shall designate five of their number to attend and act as  
32 inspectors of said election; and the inspectors so designated  
33 shall certify under their hands the names of the directors thus  
34 duly elected, and shall also notify the said directors of their  
35 election, and of the time and place of holding the first meet-  
36 ing of said directors; at which meeting the above-named cor-  
37 porators shall deliver to the said directors the books of sub-  
38 scription to the stock of said company, with the amount paid  
39 thereon, together with a full report of their proceedings under  
40 this act; and thereupon the duties of the corporators herein-  
41 before named shall cease and determine forever; and there-  
42 after the stockholders shall constitute said body politic and  
43 corporate. The directors thus chosen shall hold their office  
44 for one year, or until others are elected to fill their places;  
45 and a majority of said directors shall constitute a quorum for  
46 the transaction of business.

1        SEC. 4. *And be it further enacted,* That the directors of  
2 said corporation shall, at their first meeting, elect from their  
3 own number a president and vice-president; and they shall  
4 also elect a treasurer, secretary, chief engineer, consulting  
5 engineer, and general superintendent, each of whom shall  
6 hold office during the pleasure of said directors. The directors  
7 shall also have power to fill vacancies in the board that may  
8 be caused by the death or resignation of any of its members

9 The treasurer and secretary shall give such bonds, with secu-  
10 rity, as the board shall from time to time require. Meetings  
11 of the stockholders of said corporation for the election of  
12 directors and for the transaction of other business shall be  
13 holden annually, and at such other times and places, and upon  
14 such notice, as may be prescribed in the by-laws.

1 SEC. 5. *And be it further enacted,* That the directors of  
2 said corporation may require the subscribers to the capital  
3 stock to pay the amount by them respectively subscribed, at  
4 such time, in such manner, and in such instalments as they  
5 may deem proper. And if any stockholder shall refuse or  
6 neglect to pay any instalment, as required by a resolution of  
7 the board of directors, the said board may forfeit said stock,  
8 and all previous payments thereon, for the use of said corpo-  
9 ration, under such general regulations as may be adopted in  
10 the by-laws of said corporation.

1 SEC. 6. *And be it further enacted,* That the corpora-  
2 tion herein created is hereby empowered to purchase, receive,  
3 and hold such real estate or other property and fixtures as  
4 may be necessary and convenient in accomplishing the objects  
5 for which this incorporation is granted; and may by their  
6 agents, engineers, contractors, or workmen, immediately enter  
7 upon, take possession of, and use all such real estate, prop-  
8 erty, and fixtures as may be necessary for the construction,  
9 maintenance, and operation of their said railway, and the

10 accommodations requisite and appertaining thereto. But all  
11 real estate, property, or fixtures thus entered upon and appro-  
12 priated by said corporation, which are not donations, shall  
13 be purchased by said corporation of the owner or owners of  
14 the same, at a price to be mutually agreed upon between  
15 them. And in case of a disagreement as to price, and before  
16 the final completion of said railway and its appurtenances, the  
17 said corporation, or the owner or owners of such real estate,  
18 property or fixtures, shall apply by petition to one of the  
19 justices of the Supreme Court of the United States having  
20 jurisdiction in the State or locality in which said real estate  
21 or other property may be situated, particularly describing the  
22 same; and the said justice, upon receiving such application,  
23 shall cause such notice to be given to the other party as he  
24 shall deem proper and sufficient, appointing therein a time  
25 and place of hearing the parties; at which time and place,  
26 upon proof that the notice directed has been given, the  
27 said justice shall direct the manner of ascertaining the true  
28 value of said real estate or other property, together with  
29 the damages which the owner or owners thereof have sus-  
30 tained or may sustain by reason of the appropriation, occu-  
31 pation, and use thereof by the said corporation. And the  
32 said justice shall appoint not less than three nor more than  
33 seven competent and disinterested commissioners, who shall  
34 be freeholders in the State or district; and at least one of whom

35 shall be a resident of the county in which said real estate or  
36 other property may be situated; and who shall, under the  
37 direction of the said justice, view said premises or property,  
38 take such testimony as they may deem proper, make appraise-  
39 ment, and determine the said damages, and report the same  
40 under oath, and in writing, to the said justice. The report  
41 shall contain a minute and accurate description of the real  
42 estate or other property appraised, together with all the evi-  
43 dence taken by the commissioners in the case. It shall be  
44 the duty of the said justice to examine the report of the said  
45 commissioners, and upon the application of either party he  
46 shall give the parties a hearing in relation thereto; and he  
47 shall have power to increase or diminish said appraisal or dam-  
48 ages if he shall become satisfied upon such hearing that in-  
49 justice has been done. Upon proof to the said justice—to  
50 be made within sixty days after his determination—of  
51 payment to the owner, or of depositing to the credit of the  
52 owner, or his legal representative, in such incorporated  
53 moneyed institution as the said justice shall direct, the  
54 amount of said award, and the payment of all expenses  
55 attending the same, including an allowance of five dollars per  
56 diem to each of the aforesaid commissioners, the said justice  
57 shall make an order or decree particularly describing said  
58 real estate or other property, and reciting the appraisement  
59 of damages and the mode of making it, together with such

60 other facts as he may deem pertinent; and when the said  
61 order or decree shall be recorded in the clerk's office of the  
62 county in which said real estate or other property may be  
63 situated, and also in the office of the Secretary of the Interior,  
64 the said corporation shall be legally and equitably seized and  
65 possessed of such real estate or other property. In case any  
66 married woman, infant, idiot, insane person, or non-resident  
67 of the State or district in which said real estate or other  
68 property may be situated shall be interested in such real  
69 estate or other property, the said justice shall appoint some  
70 competent disinterested person to appear before said commis-  
71 sioners and act for and in behalf of such married woman,  
72 infant, insane person, or non-resident.

1       SEC. 7. *And be it further enacted,* That upon the final  
2 location of said railway, and the approval thereof by the  
3 President, the said corporation shall file, or cause to be filed,  
4 a correct map and profile thereof, made to such scale as the  
5 Secretary of the Interior may direct, in the office of the Sec-  
6 retary of the Interior; and in such office or offices in any  
7 State through which said railway may pass, as may be desig-  
8 nated by the governor thereof.

1       SEC. 8. *And be it further enacted,* That whenever  
2 the track or tracks of the railway hereby authorized to be  
3 constructed shall cross, intersect, or follow the line or track  
4 of any other railroad now constructed or in process of con-

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5   struction, in such a manner as to retard or in any manner in-  
6   terfere with the use and occupation of such railroad or rail-  
7   roads, or with the construction, use, and occupation of the rail-  
8   way hereby authorized, and the corporation herein organized  
9   cannot make an amicable and equitable arrangement with the  
10  corporation owning or operating such railroad or railroads  
11  thus crossed, intersected or followed, then either party con-  
12  sidering itself aggrieved may apply to the President of the  
13  United States for relief, and it shall be the duty of the Presi-  
14  dent to refer the matter for hearing, investigation, and decision  
15  to the Secretary of War, the Postmaster General, and the  
16  Secretary of the Interior, whose decision, or that of any two  
17  of them, when approved by the President, shall be final and  
18  conclusive. Whenever it shall be necessary, in the construc-  
19  tion of said railway, to intersect or cross any stream of water  
20  or watercourses, the same shall be done in such manner as  
21  not to interfere unnecessarily with the value or usefulness of  
22  said streams or watercourses; and whenever any navigable  
23  streams or waters shall be crossed by said railway, the same  
24  shall be provided with such suitable drawbridges as will not  
25  unnecessarily interfere with navigation; and whenever any  
26  road or highway shall be crossed or intersected by said railway,  
27  the same shall, whenever practicable, be carried either over or  
28  under said railway, and restored as far as may be to its former  
29  state and usefulness; and said corporation shall erect and main-

tain fences on the sides of their railway, of the height and strength required by law for a division fence, with the necessary gates or bars therein, together with all necessary farm crossings and cattle guards, to prevent animals from getting on to said railway.

1        SEC. 9. *And be it further enacted,* That if any person  
2 shall wilfully do, or cause to be done, any act or acts what-  
3 ever, whereby any building, structure, or work of said corpo-  
4 ration, or any engine, car, or machine, appertaining to said  
5 railway, shall be stopped, impaired, or destroyed, the person  
6 or persons so offending shall be guilty of a misdemeanor;  
7 and shall also forfeit and pay to the said corporation double  
8 the amount of damages sustained by means of such offence,  
9 to be recovered in the name of said corporation, with cost of  
10 suit, by action of debt.

1        SEC. 10. *And be it further enacted,* That the gauge of  
2 said railway track shall be of such uniform width throughout  
3 its entire length as may be prescribed by the President of  
4 the United States; and that the railway shall be laid through-  
5 out its entire length, with at least two tracks; and the entire  
6 railway, with all its structures, fixtures, outfit, and appurte-  
7 nances, shall be equal in character and workmanship to any  
8 one of the first-class railways in this country. And that when  
9 fully completed and equipped, the schedule rates of speed for  
10 passenger, mail, military, and freight trains shall be subject

11 to the approval of the Secretary of War, the Secretary of  
12 the Interior, and the Postmaster General, not to exceed,  
13 however, eight hours in time over the entire railway for pas-  
14 senger and mail trains, twelve hours for military trains, and  
15 sixteen hours for freight trains; and that the tariff of prices  
16 shall not exceed two and one-half cents per mile for first-  
17 class passengers, and five cents per ton per mile for first-class  
18 freights, and other classes in proper proportion; and that the  
19 government of the United States reserves to itself the perpetual  
20 right of priority of business on said railway, to wit: the  
21 transmission of troops, seamen, munitions of war, army and  
22 navy supplies, and other government freights at the same  
23 rates of charges as shall be made to individuals for similar  
24 services; and also the transportation of the United States  
25 mails semi-daily each way, at rates not exceeding the ave-  
26 rage rates paid for similar service upon other first-class rail-  
27 ways in the country, of equal speed and capacity.

1       SEC. 11. *And be it further enacted*, That in considera-  
2 tion of the aforesaid restrictions, and that the government of  
3 the United States reserves to itself the powers and privileges  
4 specified in the foregoing section, and for the purpose of  
5 aiding in the speedy completion of said railway, the Presi-  
6 dent of the United States is hereby directed to cause the  
7 proper officers of the government to prepare bonds of the  
8 United States to the amount of five million dollars, in such

9 form as he may prescribe, in sums of one thousand dollars  
10 each, bearing five per cent. interest per annum from their  
11 date, which interest shall be paid semi-annually by the  
12 United States; and said bonds shall be redeemable in thirty  
13 years from their date. Whenever the said corporation shall  
14 have in good faith expended in the construction and equip-  
15 ment of said railway two million dollars, and shall have fur-  
16 nished the President with satisfactory evidence of the same,  
17 then he shall cause to be delivered to said corporation one  
18 million dollars of said bonds; and so on thereafter as fast as  
19 said corporation shall satisfy the President that two million  
20 dollars additional have been in good faith expended upon the  
21 road, its fixtures and equipment, he shall cause to be issued  
22 to said corporation an additional million dollars, until the  
23 entire road shall have been fully completed and equipped;  
24 and then, if any of the five million dollars of the aforesaid  
25 bonds shall remain in the hands of the government, the same  
26 shall be paid over to said corporation. The five thousand  
27 bonds so issued and paid over by the government to said  
28 corporation shall constitute the first and only lien upon the  
29 entire railway, together with its real estate, structures, fix-  
30 tures, and franchises; and whenever any portion of said  
31 bonds are paid over by the government to said corporation,  
32 the same shall constitute the first and only lien upon so much  
33 of the railway and fixtures as may at the time represent the

34 expenditures on account of the same up to the date of the  
35 delivery of said bonds. And in case of default on the part  
36 of said corporation in the faithful and proper prosecution of  
37 the work, and the carrying out promptly and in good faith  
38 all the provisions and requirements of this act, to be by the  
39 said corporation performed and kept, the President shall  
40 have power, and it shall be his duty to take immediate pos-  
41 session of said railway, property, and fixtures, or so much  
42 thereof as may at the time have been constructed or partly  
43 constructed, and furnished or partly furnished, for the use  
44 and benefit of the United States; and upon his doing so, all  
45 the rights, immunities, franchises, property, and interest of  
46 said corporation in and to said railway, or any of its property  
47 and appurtenances, shall cease and determine forever; and  
48 the amount expended by said corporation upon, and on  
49 account of the same, shall be forever forfeited to the use and  
50 benefit of the United States.

1       SEC. 12. *And be it further enacted,* That the said corpo-  
2 ration shall provide for the repayment of the bonds hereinbe-  
3 fore provided to be issued by the United States in aid of the  
4 construction and equipment of said railway, in the manner  
5 following, to wit: At the end of ten years from the date of  
6 the first issue and receipt of one million dollars of said  
7 bonds, the said corporation shall pay into the United States  
8 treasury one million dollars, with accumulated interest thereon ;

9 at the end of fifteen years from the date and receipt of the  
10 second issue of one million dollars of said bonds, the said cor-  
11 poration shall pay into the treasury of the United States  
12 another million dollars with accumulated interest; at the end  
13 of twenty years another million dollars with accumulated  
14 interest; at the end of twenty-five years another million dol-  
15 lars with accumulated interest; and at the end of thirty years  
16 from the fifth or last issue of said bonds, the balance that may  
17 remain unpaid to the United States, on account of the princi-  
18 pal and interest of the entire issue of said five million dollars,  
19 shall be paid into the treasury of the United States by said  
20 corporation.

1       SEC. 13. *And be it further enacted,* That the said cor-  
2 poration shall so commence and prosecute the work of con-  
3 structing and equipping said railway, that it shall be fully  
4 completed, with all the fixtures and conveniences necessary  
5 for the prompt and efficient transaction of business thereon  
6 as herein contemplated, within eighteen months from and  
7 after the passage of this act.